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BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			BUI, LUAN KIM	
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			3728	

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Please find below and/or attached an Office communication concerning this application or proceeding.



***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 44, 48 and 48 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Hjelle (5,005,679) in view of Beurekjian (5,881,875) and Anderson et al. (5,655,695; hereinafter Anderson'695). Hjelle discloses a bag/tennis bag (1) comprising a main compartment/accessory compartment (A), a side compartment/racquet compartment (B) positioned in spaced relation to the accessory compartment and a cooler compartment (10, 11) coupled to one of the accessory compartment and the racquet compartment. The racquet compartment including a top, a bottom, opposing first and second sides and the cooler compartment including an insulated lining (13), an opening (14), a flap (21) configured to cover the opening and a closing member (20a, 20b). Hjelle also discloses the other limitations of the claims except for the racquet compartment having a generally truncated egg-shaped cross-section defined by the first and second sides and the racquet compartment being configured to conform to the shape of a racquet head.

Beurekjian shows at least one racquet compartment (30) configured to conform to the shape of a racquet head and at least one side (42) is truncated. Anderson'695 teaches a racquet compartment (10) configured to conform to the shape of a racquet head (Figure 2). It would have been obvious to one having ordinary skill in the art in view of Beurekjian and Anderson'695 to modify the racquet compartment of Hjelle so the racquet compartment is

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configured to conform to the shape of a racquet head for decorative purposes and also for better protecting the racquet and the racquet compartment having a generally truncated egg-shaped cross-section defined by the first and second sides because such selection of the specific shape for the racquet compartment such as the shape as claimed would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's specification does not state that using these specific shape as claimed solves any particular problem or yields any unexpected results.

3. Claims 45-47 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 44 above, and further in view of Schweitzer (4,085,873) or Paul et al. (6,138,881; hereinafter Paul'881) and Garcia, III et al. (6,619,447; hereinafter Garcia'447). Hjelle discloses the bag/tennis bag (1) as above having most of the claimed limitations including a front wall, a rear wall positioned in spaced relation to the front wall and defining a longitudinal center axis, opposing first and second side walls connecting the front wall and the rear wall except for the first and second side walls being meeting at an apex.

Due to Applicant's traversal of the Examiner's use of official notice, Schweitzer (cited by Applicant in the information disclosure statement) teaches a backpack with a first and second side walls (14, 16) connecting a front and rear walls (10, 12) and meeting at an apex (Figure 1). Paul'881 (also cited by Applicant in the information disclosure statement) teaches a backpack (10) with a first and second side walls (20) connecting a front and rear walls (16, 18) and meeting at an apex (44, column 4, lines 1-5 and Figure 1). Garcia'447 shows a bag (12) comprising a front wall (18), a rear wall (20) positioned in spaced relation to the front wall and

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defining a longitudinal center axis, opposing first and second side walls (22, 24) connecting the front wall and the rear wall and meeting at a top which is considered equivalent to an apex as claimed.

It would have been obvious to one having ordinary skill in the art in view of Schweitzer or Paul'881 and Garcia'447 to modify the bag of Hjelle so the first and second side walls connecting the front wall and the rear wall and meeting at an apex for carrying more items.

4. Claim 15 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Cowen (3,963,103) in view of Garcia, III et al. (6,619,447; hereinafter Garcia'447) and Beurekjian (5,881,875). Cowen discloses a bag (10, 11) comprising a front wall (27), a rear wall (31) positioned in spaced relation to the front wall and including a first longitudinal axis, opposing first and second side walls (22, 24) and a bottom wall (23). An accessory compartment (10) defined by the front wall, the rear wall, the first side (22), the second side, an upper portion, a lower portion and an accessory compartment closing member (28, 29) configured to close an opening to the accessory compartment. Cowen further discloses a racquet panel (a front wall of the racquet compartment 11) coupled to the front wall and including a second longitudinal axis extending substantially parallel to the first longitudinal axis and a racquet compartment (11) defined by the front wall and the racquet panel. Cowen also discloses the other limitations of the claim including the racquet panel comprises an arcuate top edge and the racquet compartment comprises an opening at the upper edge (between slide elements 18, 19). However, Cowen fails to show racquet panel comprises an arcuate first side edge, an arcuate second side edge, an

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arcuate lower edge and the racquet compartment comprises a generally truncated egg-shaped cross-section and conforming to the shape of a racquet head.

Garcia'447 shows a bag (12) comprising a panel/racquet panel (32) having an arcuate first side edge, an arcuate second side edge and a lower edge. Beurekjian suggests at least one racquet compartment (30) configured to conform to the shape of a racquet head with an opening at an upper edge (42) between a racquet panel (30) and a front wall (24), at least one side (42) is truncated and an arcuate first side edge, an arcuate second side edge and a lower edge.

It would have been obvious to one having ordinary skill in the art in view of Garcia'447 and Beurekjian to modify the racquet panel of Cowen so the racquet panel comprises an arcuate first side edge, an arcuate second side edge and an arcuate lower edge to prevent the racquet from moving during shipping and/or handling and the racquet compartment comprises a generally truncated egg-shaped cross-section and the compartment is conforming to the shape of the racquet head because such selection of the specific shape for the racquet compartment such as the shape as claimed would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's specification does not state that using these specific shape as claimed solves any particular problem or yields any unexpected results.

5. Claims 17-20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 15 above, and further in view of Romano (6,434,032). The bag of Cowen as modified further fails to show a center partition being received within the racquet compartment to define a first racquet portion and a second racquet pocket.

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Romano shows a bag (10) comprising a center partition (28) received within a compartment to define a first pocket for holding items (40, 44, 59) and a second pocket (36). It would have been obvious to one having ordinary skill in the art in view of Romano to modify the bag of Cowen as modified so the racquet compartment includes a center partition to define a first pocket and a second pocket to provide more convenient for a user for separating items within the first and second pockets.

6. Claims 21-29 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Cowen (3,963,103) in view of Schweitzer (4,085,873) or Paul et al. (6,138,881; hereinafter Paul'881) and Clement (5,413,199). Cowen discloses the bag as above having all the limitations of the claims except for the first and second side walls being meeting at an apex and a storage pocket being received within and coupled to one of the rear wall and the front wall of the accessory compartment and the storage pocket comprises a longitudinal axis being angled upwardly from horizontal.

Due to Applicant's traversal of the Examiner's use of official notice, Schweitzer (cited by Applicant in the information disclosure statement) teaches a backpack with a first and second side walls (14, 16) connecting a front and rear walls (10, 12) and meeting at an apex (Figure 1). Paul'881 (also cited by Applicant in the information disclosure statement) teaches a backpack (10) with a first and second side walls (20) connecting a front and rear walls (16, 18) and meeting at an apex (44, column 4, lines 1-5 and Figure 1). Clement teaches a bag (10) having a storage pocket (67, Figure 5) received within a storage compartment of the bag and the storage pocket including a longitudinal axis.

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It would have been obvious to one having ordinary skill in the art in view of Schweitzer or Paul'881 and Clement to modify the bag of Cowen so the first and second side walls meeting at an apex as taught by Schweitzer or Paul'881 for carrying more items or to conform with the shape of the article and a storage pocket received within the accessory compartment as taught by Clement for holding an additional items. The storage pocket of Cowen as modified is capable to configure the longitudinal axis angled upwardly from horizontal.

7. Claims 38-40 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (4,773,535) in view of Feller (5,238,305). Cook discloses a case/bag (70) comprising a front wall (74) and a panel/racquet panel (84) coupled to the front wall to define a compartment/racquet compartment with an opening. The compartment having a top, a bottom, opposing first and second sides (Figure 3). Cook further discloses a lock strap (36) with one end/retaining strap extending proximate the top of the compartment intermediate the front wall and the panel and other end/loop coupled to the panel. The lock strap also includes hook and loop fastener material for easy opening and closing (column 4, lines 27-36). However, Cook fails to show a releasable securing member such as a female portion and a male portion in lieu of the hook and loop fastener material. Feller shows a strap (38) comprising a retaining strap (38) including a releasable securing member such as a female portion and a male portion (40). It would have been obvious to one having ordinary skill in the art in view of Feller to modify the strap of Cook so it includes show a releasable securing member such as a female portion and a male portion for better securing items within the compartment. The compartment of Cook is



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capable to hold a racquet and the strap is capable to extend across the opening of the top of the compartment for retaining a throat of a racquet.

8. Claims 41-43 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 38 above, and further in view of Romano (6,434,032). The bag of Cook as modified further fails to show a partition being received within the compartment and defined a first pocket and a second pocket. Romano shows a bag (10) comprising a center partition (28) received within a compartment to define a first pocket for holding items (40, 44, 59) and a second pocket (36). It would have been obvious to one having ordinary skill in the art in view of Romano to modify the bag of Cook as modified so the compartment includes a partition to define a first pocket and a second pocket to provide more convenient for a user for separating items within the first and second pockets.

***Allowable Subject Matter***

9. Claims 1-14, 30-37 and 51 are allowed.

10. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to 10/4/2006 have been considered but are deemed to be moot in view of the new grounds of rejection.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb  
November 21, 2006



Luan K. Bui  
Primary Examiner  
Art Unit 3728